IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.06.2007

C O R A M :

THE HONOURABLE MR.A.P.SHAH, THE CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE P.JYOTHIMANI

W.A.No. 783 of 2007
and M.P.No.1 of 2007

S. Janagarathinam ... Appellant

-vs-

1.The State of Tamil Nadu
rep. by its Secretary
Tourism Department
Fort St. George
Chennai 600 009.

2.The Managing Director
Tamil Nadu Tourism Development
Corporation Ltd.,
Tourism Complex No.2
Wallajah Road
Near Kalaivanar Arangam
Chennai 600 002. ... Respondents

Writ Appeal filed under Clause 15 of Letters Patent against the order of the learned single Judge dated 23.03.2007 made in W.P.No.11312 of 2006 presented under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the proceedings of the second respondent in memo No.841/A2/04 dated 1.10.2005 and quash the same and consequently direct the respondent herein to implement the G.O.Ms.NO.666 dated 27.06.1989 issued by the Finance Department to Government of Tamilnadu thereby revise the scale of pay of the Petitioner fixed from Rs.705 to 905 + allowances since 27.06.1989 from the date of issuance of G.O.Ms.No.666.

For appellant :: Mr. A. Thiagarajan

JUDGMENT

(DELIVERED BY P.JYOTHIMANI,J.)

This appeal is directed against the order of the learned single Judge in dismissing the writ petition filed by the appellant, challenging the proceedings of the second respondent dated 01.10.2005 and to direct the respondents to implement G.O.Ms.No.666 dated 27.06.1989, revising the scale of pay of the appellant from Rs.705/- to Rs.905/- with allowances from 27.06.1989.

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2. According to the appellant, he was working as a Store Keeper (Technical) in the second respondent establishment with effect from 19.08.1988 and at that time he was having Diploma in Mechanical Engineering and therefore, his pay should have been fixed as Rs.905/-. Even though he was having higher qualification than which was required for the Store Keeper, his basic pay was fixed at Rs.705/-, whereas salary of Foreman/Depot Supervisor in other Transport Corporations was fixed at Rs.905-1545. The request of the appellant to fix his pay at Rs.905/- with effect from the Fifth Pay Commission made in G.O.Ms.No.666 dated 27.06.1989, was not considered and therefore, he filed W.P.No.21938 of 2005 and based on the direction given by this Court, to consider the representation of the appellant dated 10.12.2003 in accordance with law, the second respondent has passed orders on 01.10.2005, rejecting his request. It is, against the said order, the appellant has filed the present writ petition, viz., W.P.No.11312 of 2006 and the learned single Judge has dismissed the same on the ground that the post of Foreman for whom the basic pay was fixed as Rs.905-1545, was a promotional post from that of Store Keeper and therefore, there was no question of refixing the pay as claimed by the appellant and also having found that Government Order was passed based on Fifth Pay Commission, which was brought in the year 1989 and the appellant's representation was only in 2003, i.e., nearly after 14 years and therefore, the writ petition was dismissed also on the ground of laches.

3. It is seen that as early as on 14.08.1986, by virtue of G.O.Ms.No.740 Finance (Pay Cell) Department while dealing with certain anomalies in some of the categories of Public Works Department, the pay scale of Technical Assistants with Diploma holders was fixed at Rs.705-1230 and based on that the appellant's pay was fixed and in subsequent Pay Commissions also further benefits have been given by taking his basic pay as Rs.705 and it was after 14 years, viz., on 20.08.2003, he made representation for the first time. In view of the above said facts, we do not agree with the contention raised by the learned counsel for the appellant. As correctly found by the learned single Judge, the appellant cannot be expected to claim the pay fixed on a promotional post. That apart, the claim of the appellant is liable to be rejected on the ground of long delay and laches. Accordingly, the writ appeal fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To

1.The Secretary
  State of Tamil Nadu
  Tourism Department
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  Chennai 600 009.

2. The Managing Director
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  Corporation Ltd.,
  Tourism Complex No.2
  Wallajah Road
  Near Kalaivanar Arangam
  Chennai 600 002.

1 cc to Mr.A.Thiagarajan, SR.33854
1 cc to Government Pleader, Sr. 33595

W.A.No.783 of 2007

MRD (CO)
kk 21/6

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